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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/605,764

10/24/2003

Yoshifumi Kachi

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JAPAN

EXAMINER

SPEER, TIMOTHY M

ART UNIT

PAPER NUMBER

1794

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/605,764	<b>Applicant(s)</b> KACHI ET AL.	
	<b>Examiner</b> TIMOTHY M. SPEER	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/14/08 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

4. By the amendment dated 01/14/08, independent claims 1 and 17 were amended to recite "the bottom face being sized to receive a back side of the wafer such that the back side is in contact with the bottom face across substantially the entire diameter of the wafer." Applicant failed, however, to indicate where support for this limitation may be found in the original specification and the Examiner was unable to find such support. For instance, the Examiner was unable to find support, inter alia, for the recitation that the wafer is in contact with the bottom

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face across "substantially the entire diameter" of the wafer. Accordingly, this limitation is considered to constitute new matter.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. The phrase "substantially the entire diameter" is unclear, rendering these claims indefinite. Applicant has failed to define, or set forth a means by which to determine, what proportion of the diameter constitutes "substantially the entire diameter," as presently claimed. Accordingly, the scope of the claims cannot be ascertained and the claims are considered to be indefinite.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 1, 2, 5, 6, 9, 10, 13, 14, 17, and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (JP 2002-134484) for reasons of record at paragraphs 3-8 in the Final Office Action dated 07/12/07, incorporated herein by reference.**

10. Regarding the newly added limitation, viz., "the bottom face being sized to receive a back side of the wafer such that the back side is in contact with the bottom face across

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substantially the entire diameter of the wafer,” this limitation is not considered to distinguish over Sato. Whether or not the bottom face can receive a wafer as presently claimed is dependent on the wafer size and how the device is used in conjunction with an unclaimed wafer is not seen to distinguish over the applied prior art. A wafer sized so as to fit into the bottom face could be selected if one so choose and does not limit the structural aspects of the claimed susceptor.

**11. Claims 3, 4, 7, 8, 11, 12, 15, 16, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato in view of Soma (USPN 5,231,690) for reasons of record at paragraphs 10-12 in the Final Office Action dated 07/12/07, incorporated herein by reference.**

12. Regarding the newly added limitation, viz., “the bottom face being sized to receive a back side of the wafer such that the back side is in contact with the bottom face across substantially the entire diameter of the wafer,” this limitation is not considered to distinguish over Sato. Whether or not the bottom face can receive a wafer as presently claimed is dependent on the wafer size and how the device is used in conjunction with an unclaimed wafer is not seen to distinguish over the applied prior art. A wafer sized so as to fit into the bottom face could be selected if one so choose and does not limit the structural aspects of the claimed susceptor.

**13. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirotake (JP 2000-290773) in view of Soma ) for reasons of record at paragraphs 14-18 in the Final Office Action dated 07/12/07, incorporated herein by reference.**

14. Regarding the newly added limitation, viz., “the bottom face being sized to receive a back side of the wafer such that the back side is in contact with the bottom face across substantially the entire diameter of the wafer,” this limitation is not considered to distinguish

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over Sato. Whether or not the bottom face can receive a wafer as presently claimed is dependent on the wafer size and how the device is used in conjunction with an unclaimed wafer is not seen to distinguish over the applied prior art. A wafer sized so as to fit into the bottom face could be selected if one so choose and does not limit the structural aspects of the claimed susceptor.

***Response to Arguments***

15. Applicant's arguments filed 01/14/08 have been fully considered but they are not persuasive. Applicant argues that the presently claims distinguish over the applied prior art due to the limitation newly added to the independent claims, viz., "the bottom face being sized to receive a back side of the wafer such that the back side is in contact with the bottom face across substantially the entire diameter of the wafer." As noted above, this limitation is not seen to distinguish over the applied prior art.

16. The structure set forth in the present claims is the same as that suggested by the applied prior art. Applicant is arguing, however, that the presently claimed devices are used in a different manner that disclosed in the applied prior art. This is not persuasive. Since the prior art articles have the same structure as presently claimed, they could be used in the claimed manner. Discovering a new use of an old article does not impart patentability to the old article.

17. In light of the above, applicant's arguments have been fully considered, but are not found to be persuasive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY M. SPEER whose telephone number is (571)272-8385. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith D. Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy M. Speer/  
Primary Examiner  
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